



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

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the Handbook

# **Chapter 16**

## **Candidate Processing**

June 2018

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## 16. Candidate Processing

<b>REQUIRED FORMS</b>  <a href="#">Certificate of Candidate Qualification SBE-501</a> <a href="#">Declaration of Candidacy SBE-505/520</a> <a href="#">Petitions SBE 506/521- Letter Size</a> <a href="#">SBE 506/521- Legal Size</a> <a href="#">SBE-511</a>  <a href="#">ELECT-612.2 Candidate Withdrawal Form</a> <a href="#">Statement of Economic Interest (optional)</a>	<b>ADDITIONAL RESOURCES</b>  <a href="#">Department of Elections Website- Candidate Bulletins</a> <a href="#">VERIS Election Setup Step-by-Step</a> <a href="#">SBE Ballot Standards</a> <a href="#">Review of Candidate Petition Page Checklist</a> <a href="#">Review of Referendum Petition Page Checklist</a> <a href="#">(OLD) Candidate Receipt for Local Office General and Special.docx</a> <a href="#">(OLD) Candidate Receipt for Local Office Primary.docx</a> <a href="#">Elect-Receipt Candidate Filing Receipt</a>
<b>REFERENCE</b>  <a href="#">Virginia Legislative Information System Website- Charter Provisions</a> <a href="#">Virginia Constitution</a> <a href="#">Appendix</a> <a href="#">SBE Policy 2008-13</a> <a href="#">SBE Policy 2010-3</a> <a href="#">Ballot Standards (Revised 2018)</a>	<b>REGULATIONS</b>  <a href="#">1 VAC 20-50-20 Material Omissions from Candidate Petitions and Petition Signature Qualifications</a> <a href="#">1 VAC 20-50-30 Appeals of Petition Signature Insufficiency</a>

### 16.1 CHAPTER ORGANIZATION

During candidate processing times, elections officials throughout the Commonwealth, at both the state and local level, interact and cooperate in concert for the shared goal of free, fair and untainted democratic elections. This chapter outlines the process local election officials use to verify candidate eligibility to run for office and appear on a ballot.

§16.2 describes the documents and forms candidates use to qualify for the ballot, and provides a process by which local offices should process candidate filings. §16.2.3 focuses particularly on the SBE-501 Certificate of Candidate Qualification, which is a required form for every candidate. Candidates use this form to provide the preferred spelling and presentation of their name on the ballot. Upon receipt, local staff review these preferences to ensure the candidate's preference complies with SBE Ballot Standards. §16.3, in turn, explains the possibility of a ten-day extension for candidates to file either or both the Certificate of Candidate Qualification and Statement of Economic Interests forms.

§16.4 discusses how petitions can be collected, outlines requirements for circulators, and the requirement that each candidate have a Declaration of Candidacy (SBE-505/520) form on file before the petitions can be processed and verified. This section details how to process the petitions required by the Code of Virginia §24.2-506 and 507, including petitions submitted by General Assembly candidates, independent candidates for federal and statewide office, and candidates in a political party primary. §16.5 provides an overview of how to verify the petitions, with reference to the SBE Material Omissions regulation, the petitions checklist, and the VERIS step-by-step. §16.6 explains the appeal process for candidates whose petitions were determined to be insufficient.



Last, §16.7 and § 16.8 focus on two ballot-related aspects of candidacy: how a candidate can withdraw and what information a prospective write-in candidate needs to know. §16.9 briefly considers a few other candidate filing related responsibilities such as the general registrar's obligation to check petitions for local independent candidates, and the formal certification to the Department of Elections of the number of registered voters who signed petitions for independent candidates for certain offices.

Disclaimer regarding Candidates for Local Offices: Candidates for local, city, and town municipal office should be reminded to review their local city or town charter when considering a run for public office. City or town charters may include candidate qualification requirements in addition to and/or different from those present in Title 24.2. Questions about charter provisions should be directed to the city or town attorney for guidance.<sup>1</sup>



Note regarding Records Retention. **All candidate filings, including petitions and copies of statements of economic interest are open to public inspection and copying for reasonable costs.**<sup>2</sup> You **must redact** all portions of candidates' social security numbers and other personally identifiable information from these records before releasing them publicly.

## 16.2 PROCESSING CANDIDATE FORMS

Refer individuals seeking information about running for office to candidate bulletins on ELECT's website.<sup>3</sup>

### 16.2.1 Candidate Forms

#### 16.2.1.1 Certificate of Candidate Qualification (SBE-501)

Each candidate to appear on a ballot must file this form to certify under oath that (s)he is qualified to vote for and hold the office (s)he is running for.<sup>4</sup> As per the Code of Virginia §24.2-501, "[e]very candidate for election to statewide office, the United States House of Representatives, or the General Assembly shall file the statement with the State Board. Every candidate for any other office shall file this form with the general registrar of the county or city where [s]he resides."

- Every candidate for **statewide office** (Governor, Lieutenant Governor, and Attorney General), the **US Senate**, the **US House**, or the **General Assembly** files this form with the **Department of Elections**.
- Every candidate for **any other office** files this form with their **general registrar**.

#### 16.2.1.2 Declaration of Candidacy (SBE-505/520)

This form must be filed with the Petition of Qualified Voters.<sup>5</sup> The Code of Virginia §24.2-505 requires that the declaration be "on a form prescribed by the board, designating the

<sup>1</sup> You can find local charters here: <https://law.lis.virginia.gov/charters>.

<sup>2</sup> See Chapter 2 (Local Electoral Boards) of the Handbook which discusses the Virginia Freedom of Information Act (FOIA).

<sup>3</sup> See ELECT candidate bulletins here: <https://www.elections.virginia.gov/candidatepac-info/candidate-bulletins/index.html>.

<sup>4</sup> See the Code of Virginia §24.2-501.

<sup>5</sup> See the Code of Virginia §24.2-505.



office for which he is a candidate,” witnessed by two qualified voters or “acknowledged before some officer authorized to take acknowledgements,” and signed by the candidate. Party candidates nominated by a non-primary method are not required to submit a declaration unless required by their party to do so.<sup>6</sup>

- Independent candidates for **local and constitutional offices** file this form with their **general registrar**.
- Primary candidates for **General Assembly, local and constitutional offices** file this form with the **party chair** for the district in which they are running.
- All candidates for a **Commonwealth-wide office** file this form with the **Department of Elections**.<sup>7</sup>

#### 16.2.1.3 *Petition of Qualified Voters (SBE506/521)*

This form is prepared and distributed by the Department of Elections in two sizes: legal and letter. The first submission of a completed petition page must be filed together with the SBE-505/520 Declaration of Candidacy.<sup>8</sup> Candidates for special elections may not circulate petitions until after the issuance of the writ or order calling the election.

Please review the petition document to understand the requirements circulators must meet prior to circulating any petition. The petition circulator is required to:

- Be a *legal resident* of the US, and
- Not a minor nor a felon whose voting rights have not been restored.

#### 16.2.1.4 *Statement of Economic Interests (SOEI)*

According to the Code of Virginia §24.2-502, a “written statement of economic interests (SOEI) shall be filed by” candidates. A candidate for a statewide office or the General Assembly must file the SOEI with the Department of Elections. A candidate for a constitutional office must file with the general registrar. A candidate for member of a governing body or elected school board of any county, city, or town with a *population in excess of 3,500 persons*” must file an SOEI with the general registrar of the county or city per Code of Virginia §24.2-502.

This requirement does not apply to an incumbent who is a candidate for reelection to the same office.<sup>9</sup> Incumbents file annually on or before February 1 with the Ethics Advisory Council per Va. Code §2.2-3115; thus, questions for this specific form for incumbents should be directed to the Ethics Advisory Council. Questions related to how the form should be filled out for incumbents or candidates should also be directed to the Ethics Advisory Council.

#### 16.2.1.5 *For Party Chairs Only: Party Certification (SBE-511)*

This form only applies to recognized political parties who seek to nominate a candidate by means other than a primary. This form is completed and submitted by the party

<sup>6</sup> See the Code of Virginia §24.2-511

<sup>7</sup> See the Code of Virginia §24.2-505 (independent candidates) and 522 (primary candidates)

<sup>8</sup> See the Code of Virginia §24.2-506.

<sup>9</sup> See the Code of Virginia §24.2-502.



chair. Please note: A candidate nominated by a political party is not required to submit a Declaration of Candidacy or Petition of Qualified Voters. SBE-511 Party Certification for local and constitutional offices should be filed with both the Department of Elections and the general registrar of the county in which the name of the candidate will appear on the ballot.<sup>10</sup>

## 16.2.2 General Processing

### 16.2.2.1 At a Glance

When the candidate files documents, review all filings to confirm that all required forms are included and that each is properly notarized and signed. Advise the candidate immediately of any deficiencies. Be sure that a candidate has submitted a Declaration of Candidacy before accepting petition pages, as per the Code of Virginia §24.2-506 and 521, which require that petition pages be submitted along with the Declaration of Candidacy.<sup>11</sup>

### 16.2.2.2 Provide Receipt

Scan the filed documents and provide the filer with a receipt listing the required documents. If documents are mailed in, you may provide a receipt through the mail or email. You can find ELECT's candidate filing receipt online. Localities can determine what order to process candidate filings. ELECT recommends processing filings chronologically in the order they were submitted.

Forms: (OLD) Candidate Receipt for Local Office\_General and Special.docx  
(OLD) Candidate Receipt for Local Office\_Primary.docx  
Elect-Receipt Candidate Filing Receipt

### 16.2.2.3 Document Time of Filing

The Code of Virginia §24.2-613 provides that all independent candidates for an office "shall appear on the ballot in an order determined by the priority of time of filing all required paperwork for the office."<sup>12</sup>

Effective July 1, 2018 Code of Virginia §24.2-613 has been amended by SB153 to specify time of filing for independent candidates to be when the candidate submits all petition signatures required for the office under the Code of Virginia §24-2.506. SB153 also specifies that time of filing for offices with no required petition signatures to be when the candidate files the certificate of candidate qualification form.

### 16.2.2.4 Simultaneous Filing

In the event that "two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office" as per the Code of Virginia §24.2-613 (as amended effective July 1, 2017.)

<sup>10</sup> See the Code of Virginia §24.2-511.

<sup>11</sup> See the Code of Virginia §24.2-506 which states that a candidate shall "file along with his declaration of candidacy" a petition signed after January 1 of the year that includes the required number of signatures. Similarly, the Code of Virginia §24.2-521 states that a candidate for primary for any office "shall be required to file with his declaration of candidacy a petition."

<sup>12</sup> See the Code of Virginia §24.2-613.



*16.2.2.5 Single Candidate Qualifies for Primary*

Any office for which only a single candidate has qualified will not hold a primary as per the Code of Virginia §24.2-526, which states “[w]henver ...there is only one declaration of candidacy in a political party for the nomination of any office, the person filing the declaration shall be declared the nominee of the party for the office ... and his name shall not be printed on the ballot for the primary.”

*16.2.2.6 VERIS*

Add the candidate in VERIS after receiving either the candidate’s certificate of candidate qualification or declaration and petitions. All candidates, including partial filers and late filers, must have a candidate record. The candidate’s VERIS record will allow for additional tracking of required documents. Should the candidate fail to qualify, set the candidate’s status to “Not Qualified” and record the reason in the Comments section of the VERIS record.

*16.2.3 Steps to Process the SBE-501 Certificate of Candidate Qualification*

Every candidate must file a certificate of candidate qualification; as per 24.2-501, it “shall be a requirement of candidacy ... that a person must file a written statement under oath, on a form prescribed by the State Board.”

In accordance with State Board of Elections policy,<sup>13</sup> a candidate’s certificate of candidate qualification “shall not be submitted before January 1st of the election year” unless a future election’s filing deadline falls in the current calendar year.<sup>14</sup>

**Policy (and Law) Note**

The Code of Virginia §§24.2-506 and 521 generally requires that candidate petitions be circulated after January 1 of the election year; the Code of Virginia also requires candidates to file other documents to meet ballot access requirements that do not specify a date that it must be prepared or signed by. Therefore, the State Board of Elections adopted a policy to resolve this, stating that “unless the Code of Virginia specifically provides otherwise, documents filed by a candidate to satisfy ballot access requirements shall not be submitted before January 2nd of the election year.”

*16.2.3.1 Verify the SBE-501 Certificate of Candidate Qualification*

Immediately upon receipt of a certificate of candidate qualification, staff should look over the document to verify the following:

- ✓ The form is complete, signed, and notarized.
- ✓ The candidate is registered at the address listed on the form, and the address is located in the district in which the candidate seeks election, as per the Constitution of Virginia.<sup>15</sup>

<sup>13</sup> See [SBE Policy 2010-3](#)

<sup>14</sup> See the Code of Virginia §§24.2-503, 24.2-507(5) and 24.2-510(5).



- ✓ The candidate's name matches the candidate's voter record in VERIS.
- ✓ The manner in which the candidate has requested the name to be listed on the ballot meets the requirements detailed in the SBE Ballot Standards



## VERIS

If the name matches, enter into VERIS. Comprehensive instructions on entering a candidate are available in the [VERIS Election Setup Step by Step](#). If the name the candidate wants on the ballot complies with the SBE Ballot Standards, enter it into the "Ballot Name" field. Enter the ballot name in upper/lower case with proper punctuation. Acknowledge receipt of all forms filed by the candidate in the "Candidate Qualifications" section of the candidate's VERIS record.

### 16.2.3.2 Ensure the Candidate Name Complies with SBE Standards



On March 23, 2018 the SBE adopted new standards for candidate names which are available on the Ballot Standards document or the SBE-501. Review the standards carefully to determine if the candidate's name is in compliance with SBE standards. If the candidate's chosen ballot name does not comply with SBE standards and the general registrar and the candidate cannot come to an agreement on the candidate's ballot name, direct the candidate to speak with election services at ELECT.

## 16.3 EXTENSIONS

Under the Code of Virginia §24.2-503, the "State Board may grant an extension of any deadline for filing either or both written statements [Candidate Qualification and Statement of Economic Interests forms]." This is an authority explicitly delegated to ELECT by the Board. The statute requires that "all candidates who have not filed their statements" be notified of the extension. Any extension granted by ELECT is for a "fixed period of time of **ten days** from the date of the mailing of the notice of the extension."

## 16.4 PROCESSING CANDIDATE PETITIONS

### 16.4.1 Petitions verified by general registrars

A general registrar must verify petitions filed by:

1. Independent (non-party) candidates for all offices in general or special elections.<sup>15</sup>
2. A party chair if the party is nominating a candidate for the General Assembly, a constitutional office, or a local office by a non-primary method of nomination.<sup>17</sup>

<sup>15</sup> See Constitution of Virginia Art. 2 §5, which states that "the only qualification to hold any office of the Commonwealth ... shall be that a person must have been a resident of the Commonwealth for one year ... and be qualified to vote for that office."

<sup>16</sup> See the Code of Virginia §24.2-506.

<sup>17</sup> The Code of Virginia §24.2-114(17) states that "[a]t the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than





### 3. Groups seeking to get a referendum question on the ballot.<sup>18</sup>

**Additional Note:** The State Board of Elections' Ballot Standards verifies and reiterates the ballot requirements as set forth in the Code of Virginia §24.2-612 which requires the general registrar to "forward [to the Department of Elections] the name of any candidate who failed to qualify [for ballot access] with the reason for his disqualification." See the Code of Virginia §24.2-612.

#### 16.4.2 Must be filed with SBE-505/520 Declaration of Candidacy

Petitions that are to be verified by general registrars must be accompanied by the filing of a SBE-505/520 Declaration of Candidacy. This form must be filed "along with" the petitions as per the Code of Virginia §§24.2-506 and 507. This does not mean the candidate must turn all of his petition forms in at one time, but please do not accept petitions without ensuring the candidate submits (or already has submitted) a Declaration of Candidacy form.

Upon filing, staff should verify that the candidate is a qualified, registered voter or has a voter registration application or change of address/transfer application on file, if the SBE-505/520 Declaration of Candidacy is received after the close of books.

If the Declaration of Candidacy form is witnessed rather than notarized, verify that the two witnesses are also qualified registered voters.<sup>19</sup> If not, the candidate must file a new declaration in order to file his petitions. If the office does not require petitions and the declaration is found to be deficient in any way, the replacement declaration must be filed prior to the filing deadline.

#### 16.4.3 Timeline and Transmission Requirements



Transmit declarations and petitions filed with the registrar's office by independent local office candidates to the local electoral board within three days of receipt for certification.<sup>20</sup> Timely processing will provide the local electoral board ample time to notify any candidate who requested to be notified in writing of deficiencies in his/her filings, and to certify qualified candidates to Department of Elections by the required deadline. Further, it will ensure that Department of Elections receives the candidate information necessary to do the following:

- Verify accuracy of electoral boards' candidate certifications and make sure that the information is accurately reflected in VERIS.
- Assemble data needed for candidate processing and ballot designs.
- Provide materials needed by electoral boards for ballot preparation.
- Communicate, as needed, with potential candidates.
- Post a candidate list to Department of Election's website for access by the general public.

a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status."

<sup>18</sup> See the Code of Virginia §24.2-684.1.

<sup>19</sup> See the Code of Virginia §24.2-505.

<sup>20</sup> See the Code of Virginia §24.2-505(B).



#### 16.4.4 Petitions for Primaries

A general registrar is not required to verify primary petitions. The political party has sole authority in designating its primary candidates. The Department of Elections strongly prefers that general registrars do not participate in primary petition verification. Checking primary petitions unnecessarily involves the Commonwealth in party processes and creates the possibility of liability in cases of discrepancies.<sup>21</sup>

#### 16.4.5 Petitions for General Assembly Candidates

VERIS now allows the controlling locality (the locality at which the candidate filed his or her petitions) to process all signatures within the district. The controlling locality is responsible for making sure the petitions are processed. The controlling locality may request the assistance of the other localities in the relevant district if necessary. If this distribution is necessary, fax or email General Assembly petition pages to other district localities immediately. Include with the faxed documents the name of the contact person for the campaign, the phone number for the contact person, the date the petitions were filed, and the number of petition pages filed so the other jurisdictions may add themselves to the candidate's master petition.<sup>22</sup>

#### 16.4.6 Petitions for Independent Candidates for Federal and Statewide Offices

The Department of Elections will set up a master petition in VERIS and then forward the petition pages with a cover letter to the appropriate general registrar(s) for verification. The cover letter will provide instructions for the general registrar to add their locality to ELECT's master petition. A locality must verify the petition signatures on the pages sent by Department of Elections irrespective of the jurisdictional origins of the petition signer. When verification is complete, the general registrar returns the processed petitions to the Department of Elections.<sup>23</sup>

### 16.5 VERIFYING CANDIDATE PETITIONS

#### 16.5.1 Resources

##### 16.5.1.1 SBE 1VAC 20-50-20

Please read the State Board of Elections material omission regulations, 1VAC20-50-20 (candidate petitions) and 1VAC20-60-20 (referendum petitions), before the candidate filing window opens. Download or print the Review of Candidate/Referendum Petition Pages Checklist (hereafter "Petition Checklist") from the Forms Warehouse. Provide staff members with the Petition Checklist before starting petition verification to review and answer any questions about what constitutes a material omission on a petition page and what constitutes a material omission for an individual signature. If material information, such as that listed in sections B and C of 20-50-20 and 20-60-20, is omitted from a petition page or a signature line, the respective page or signature will not be considered valid. Note also that section D of 20-50-20 and 20-60-20 lists several omissions that are classified as "nonmaterial." A petition or signature may not be invalidated on the basis of one of these omissions, as long as the registrar can "independently and reasonably verify the validity of the petition or signature."<sup>24</sup>

<sup>21</sup> See the Code of Virginia §24.2-527.

<sup>22</sup> See the Code of Virginia §24.2-505(B).

<sup>23</sup> See the Code of Virginia §24.2-506(B); see also Va. Admin. Code [1VAC20-50-20](#).

<sup>24</sup> See Va. Admin. Code [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).



**Regulation Note****1VAC 20-50-20: Material Omissions from Candidate Petitions and Petition Signature Qualifications.**

Some petition omissions that are **always** material include, **but are not limited to**: the petition failing to name the candidate on the front of the form, the petition failing to identify the office sought on the front, the petition failing to identify the applicable election district, the circulator not signing the petition affidavit, the circulator not signing the petition in the presence of a notary, and a notary not signing the affidavit for each petition. See Va. Admin. Code 1VAC20-50-20.

Some petition *signature* omissions that are **always** material include, **but are not limited to**: the signer is not qualified to cast a ballot for the office for which the petition was circulated and the signer provided a date that is later than the notary's signature. See Va. Admin. Code 1VAC20-50-20.



**16.5.1.2 Petition Checklist**

Use the Petition Checklist. Begin with line 1 on the first petition page. Ensure that the page and line number you are working on matches the page and line number in VERIS. Use the following notations to track your work on the paper petition page as you input each signature into VERIS. As you check each name in VERIS, mark the left margin beside the line number for the signer with one or, if necessary, two of the following alpha character notations, as appropriate:

<b>R</b>	Registered	The person is registered in your county or city, or if applicable, in the election district for which the petition was circulated. The address on the petition matches the registrant's address in VERIS or is an address in the same precinct where the registrant is registered. If the address is different, or if the signer is on "Inactive" status, issue the voter a confirmation notice (see "CNI" abbreviation below.) <sup>25</sup> <i>Referendum Note:</i> A person who signs a petition for a referendum must be a registered voter both at the time the petition was signed (see DATE SIGNED column on petition) and at the time the petition is validated by the registrar. <sup>26</sup> Please remember to check each voter's history to ensure the voter was registered at the time they signed the petition before accepting their signature to the referendum's master petition.
<b>RNQ</b>	Registered but Not Qualified	Person is registered at the address shown, but the address is in another election district; the person registered after signing or registered after the date the candidate filed the petition; person already signed or the person is registered but is also the circulator.
<b>CI</b>	Cannot Identify	A person who cannot be identified as a registered voter, or there is more than one registered voter with the same name and none are at the address shown on the petition.
<b>IL</b>	Illegible	A person who wrote on the candidate's petition page but all the text written by the person is illegible.
<b>CNI</b>	Confirmation Notice Issued	The registrar must initiate a confirmation mailing for a voter who provides an address that does not match that in VERIS. Most of these voters will be marked for "Research" within the VERIS petition functionality. <sup>27</sup> Use "CNI" when you initiate the confirmation mailing.
<b>DUP</b>	Duplicate	A duplicate name already counted due to its appearance on a previous page of the candidate's petition.

<sup>25</sup> See the Code of Virginia §24.2-428.1.

<sup>26</sup> See the Code of Virginia §24.2-684.1(7).

<sup>27</sup> See the Code of Virginia §24.2-428.1.



## 16.5.2 Troubleshooting

### 16.5.2.1 Affidavit and Notarization

If the affidavit is complete and notarized, continue to the Verification Steps. If the affidavit is incomplete or not signed by the circulator but it has been notarized, the petition page may not be processed. Proper notarization includes registration number, commission expiration date, and seal.<sup>28</sup>

Notary mistakes may be corrected if time permits. At the general registrar's discretion, the incorrectly notarized forms may be returned to the candidate. Please report notaries who fail to properly execute their duties to the Secretary of the Commonwealth.

Any corrected petitions must be re-filed before the appropriate candidate filing deadline. A receipt itemizing the number of pages being returned to the candidate/campaign should be kept in the candidate's file.

### 16.5.2.2 Circulator Eligibility

A circulator can be any person legally residing in the United States who is neither a minor nor a felon whose rights have not been restored.<sup>29</sup> A circulator who signs the affidavit claiming to be a legal resident of the United States, a non-minor and a non-felon will be taken at his word subject to a false statement penalty.<sup>30</sup> Petition pages with eligible circulators can be processed. Set aside those pages with ineligible circulators. Once the circulator is determined to be eligible, check the rest of the names on that page.



#### Law Note

The United States 4<sup>th</sup> Circuit Court overruled Virginia's requirement that petition circulators must live in the Commonwealth. Virginia statute imposes an additional requirement that circulators hold Virginia residency. This cannot be enforced under the U.S. 4<sup>th</sup> Circuit Court's ruling in *Libertarian Party v. Judd*.<sup>31</sup> The court's ruling obviates the statutory requirement that a circulator be a legal resident of the Commonwealth.<sup>32</sup>

<sup>28</sup> See Va. Admin. Code [IVAC20-50-20](#) (candidate petitions) and [IVAC20-60-20](#) (referendum petitions).

<sup>29</sup> See Code of Virginia §24.2-506 (but requirement that circulator be resident of the Commonwealth is no longer valid) and Va. Admin. Code [IVAC20-50-20](#) (candidate petitions) and [IVAC20-60-20](#) (referendum petitions).

<sup>30</sup> See the Code of Virginia §24.2-1016.

<sup>31</sup> 718 F. 3d 308 (2013).

<sup>32</sup> See the Code of Virginia §24.2-506.



### 16.5.3 Number of Signatures

VERIS will permit a local user to shift the status of a local master petition to “Certified” only after the minimum number of signatures has been added to the master petition. The local VERIS user must shift the status of a local candidate’s master petition to “Certified” before being allowed to shift the status of the local candidate’s record to “Qualified.” If the registrar finds that he made an error and needs to remove one or more accepted signatures, the registrar must go back into VERIS and return the local master petition to “In Process.” This action should also allow a return of the candidate’s record to “In Process.” Once the error is addressed, the local master petition must be returned to “Certified” or “Rejected” and the candidate’s record returned to “Qualified” or “Disqualified” as applicable to the outcome of the review.

#### 16.5.3.1 *Measure the Number of Registered Voters to Determine Signature Requirements*

Use the number of registered voters as of January 1st to determine all signature requirements that are based on the number of registered voters in any county, city, town, district, or ward.<sup>33</sup> In a redistricting year, the signature requirement is based on the number of registered voters in any county, city, town, district or ward at the time the legislation or ordinance is adopted.

#### 16.5.3.2 *Signature Requirements for Candidate Petitions*

New petition requirements as per the Code of Virginia became effective July 1, 2017:

- A candidate for membership on the governing body or elected school board of any county or city must collect at least 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures.
- A candidate for membership on the governing body or elected school board of any town that has more than 3,500 registered voters must collect at least 125 signatures; or if from a ward or other district not at large, 25 signatures.
- A candidate for membership on the governing body or elected school board of any town that has at least 1,500 but not more than 3,500 registered voters must collect at least 50 signatures; or if from a ward or other district not at large, 25 signatures.
- A candidate for membership on the governing body or elected school board of any town that has fewer than 1,500 registered voters, no petition shall be required.
- Candidates for Soil and Water Conservation District Director are only required to obtain 25 signatures.<sup>34</sup>

## 16.6 APPEALS

A non-party candidate has the right to appeal a determination by the electoral board that the candidate’s petitions do not contain the minimum number of signatures of qualified voters for the office sought.<sup>35</sup> Appeals are conducted by the determining body in accordance with regulations set forth by the State Board of Elections as per Va. Admin Code 1VAC20-50-30.

<sup>33</sup> See the Code of Virginia §§24.2-506, 24.2-521.

<sup>34</sup> See the Code of Virginia §§24.2-506, 24.2-521.

<sup>35</sup> See the Code of Virginia §24.2-506



**Scope of Appeal.** As per the Code of Virginia §24.2-506, consideration on appeal is “limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of [Title 24.2 of the Code of Virginia and regulations for petitions set forth by the State Board of Elections].”

**Burden of Proof.** According to 1VAC20-50-30, “[t]he candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.” To meet this burden, the candidate must provide a list “containing the rejected signatures to be reviewed and the specific reason for each signature’s reconsideration” at least two business days before the date the appeal is set to be heard. If the candidate fails to submit a list, or “submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate[’s petition] was deemed deficient,” no hearing will be held, and the earlier decision that the candidate did not qualify will be final. 1VAC20-50-30 also provides that candidates may choose to submit the following additional types of evidence:



#### Regulation Note

##### **1VAC 20-50-30: Appeals of Petition Signature Insufficiency.**

A candidate for office, other than a party nominee, can appeal the determination of insufficient signatures. At least two business days prior to the appeal hearing, the appellant must submit documents that clarify the status of persons whose signatures were rejected. These documents include:

- “[D]ocuments clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence”
- “[D]ocuments establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor”
- “[A]ffidavits from persons whose signatures were rejected due to eligibility that attest to their identity. The affidavits should state the person’s name, residence address, and, if possible, a reasonable description of the location where approached...to sign the petition”
- Cannot submit documents that demonstrate that a petition signer became registered after the established candidate filing deadline for the office sought.

**Where to File.** The appeal must be made in writing, and delivered by mail, email, or fax. The appeal must be notarized and received by the appropriate deadline as per VAC 20-50-30. A candidate for city, county or town office files her appeal with the local electoral board. A candidate for any other office files with the Department of Elections.<sup>36</sup>

**When to File.** A candidate for an office other than President of the United States must file her appeal within five (5) calendar days of the issuance of the notice of disqualification. A candidate for the office of President of the United States must file within seven (7) calendar days of the issuance of the notice of disqualification.<sup>37</sup>

<sup>36</sup> See the Code of Virginia §24.2-506 and Va. Admin. Code [1VAC20-50-30](#).

<sup>37</sup> See Va. Admin. Code [1VAC20-50-30](#).



**Finality.** The outcome of the appeal is final and not subject to further challenge.<sup>38</sup>

**Scheduling.** Scheduling will be critical in ensuring that the appeal ends promptly. An appeal may not begin until a decision is rendered regarding a non-party candidate's petition signatures. According to 1VAC20-50-30, the body that received the appeal notice "shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate." If the candidate provided an email address, an email notification should be sent. If the candidate did not provide an email address, the notification should be sent by first-class mail.<sup>39</sup> Absentee ballot preparation should not be finalized until all appeals have concluded. Examples of proposed appeal schedules are covered in this section. The electoral board should consult its county/city attorney to develop a timeline for the appeal and to answer legal questions.

## 16.7 CANDIDATE WITHDRAWAL

### 16.7.1 Candidate Steps to Withdraw

Any candidate who decides that he/she no longer wants to be a candidate must "submit a signed written notice declaring his [her] intent to withdraw from such election" as per the Code of Virginia §24.2-612.2.<sup>40</sup> The Department of Elections provides *ELECT-612.2 Candidate Withdrawal Form* for candidates to complete if they wish to withdraw. This document is not a required document and the candidate may submit *any* written notice of withdrawal. The withdrawal statement must include the candidate's name, the candidate's signature, the office the candidate was seeking and the election date and must specifically state that he/she is withdrawing as a candidate.<sup>41</sup> Newspaper articles or press conferences do *not* constitute an official notice of withdrawal.

An independent candidate sends his/her withdrawal notice to the general registrar of the county or city in which the candidate resides. For an election held in more than one county or city, the general registrar receiving the withdrawal notice is required to notify the appropriate general registrars.<sup>42</sup> Upon receiving a notice of withdrawal, the general registrar must post the notice on the official website for the county or city, if election information is posted on the website.<sup>43</sup>

<sup>38</sup> See the Code of Virginia §24.2-506 and Va. Admin. Code [1VAC20-50-30](#).

<sup>39</sup> See Va. Admin. Code [1VAC20-50-30](#).

<sup>40</sup> See the Code of Virginia §24.2-612.2. Subsequent procedures for withdrawal of a primary candidate are delineated in §§24.2-536, 24.2-537, and 24.2-538; while procedures applicable to the withdrawal of a general or special election political party nominee are in §§24.2-539 and 24.2-540.

<sup>41</sup> See the Code of Virginia §24.2-612.2.

<sup>42</sup> *Id.*

<sup>43</sup> See the Code of Virginia §24.2-612.1.





## 16.7.2 Administrating a Candidate Withdrawal

## Frequently Asked Questions



*What if a general registrar receives a notice of withdrawal from a candidate certified by the Department of Elections (e.g., General Assembly)?* Immediately fax or email the notice of withdrawal to the Election Administration division at (804) 371-0194 or [ea@elections.virginia.gov](mailto:ea@elections.virginia.gov). Include a comment indicating who received the notice and when.

*What if the withdrawal notice is received before ballot preparation begins?* Change the candidate's status to "Withdrawn" on the "Candidate Maintain" page in VERIS. Whenever a candidate's name remains on the ballot because s/he withdrew after the ballots were printed, the status field must continue to display "Qualified." This will ensure that the candidate's name remains on the "Election Results > By Office/By Precinct" screen thus allowing data entry of the votes cast for the withdrawn candidate.

*Will the withdrawn candidates' name remain on the ballot?* The Department of Elections determines, based on the time available before the election and the status of the ballots for the election, whether or not ballots containing the name of the withdrawn candidate must be reprinted. If the Department of Elections decides that the name will remain on the ballot, it will provide to the secretary of the electoral board and the general registrar a notice explaining that the candidate's withdrawal occurred after the ballots were printed and, therefore, the name remains on the ballot.<sup>1</sup> As per the Code of Virginia §24.2-612.1, "if ballots are not corrected to delete the candidate's name, the general registrar shall provide a list of candidates who have withdrawn to be posted in each polling place and to be available to the public. If election information is posted on the official website for the county or city, notice of the candidate's withdrawal shall also be posted on that website."

*What if a candidate's name remains on the ballot because the candidate died or withdrew after the ballots were printed?* The status field must continue to display "Qualified." This will ensure that the candidate's name appears on the election results screen to allow entry of the votes cast for the withdrawn candidate.



## 16.8 WRITE-IN CANDIDACY

Write-ins are permitted for any office elected in a general or special election.<sup>44</sup>

### 16.8.1 Running as a Write-in

The Constitution of Virginia Art. 2 §5 requires an elected official to be able to vote for the office he is seeking.<sup>45</sup> Therefore, the write-in candidate must be a registered voter of the jurisdiction or, if applicable, of the election district, on or before the last day to register to vote before the November/May election.

### 16.8.2 Voting for a Write-In

The write-in vote must be handwritten or hand-printed by the voter unless the voting system in use provides a means to enter the name electronically (include write-in instructions applicable to voting system in use).<sup>46</sup>

## 16.9 ADDITIONAL CANDIDATE-RELATED RESPONSIBILITIES

### 16.9.1 General registrar to run report to determine the offices and order of candidates

Once the general registrar enters qualified and non-qualified candidates in VERIS, the registrar can run the Certification of Candidates Report to determine the offices and the order of candidates as they should appear on the ballot.

### 16.9.2 Certify to local electoral board the declaration of candidacy and petitions of all independent candidates for offices as per the Code of Virginia §24.2-505(C)

The general registrar must check the declaration of candidacy and petitions, if required, of all independent (non-party) candidates for offices to be certified by the local electoral board. Within three days of receipt, the general registrar must transmit these documents to the electoral board together with the certification of the registration status of the candidate, the completeness of the declaration of candidacy and either (i) that the petitions contained the required number of signatures of qualified voters for the office sought, or (ii) that the petitions did not contain a sufficient number of signatures of qualified voters. When insufficient signatures are found for a candidate, include the deficient number found.

The general registrar certifies the signatures of registered voters that appear on petitions of independent (non-party) candidates for the following offices:

- Clerk of Court, when not shared with another county or city
- Commonwealth's Attorney, when not shared with another county or city
- Sheriff, when not shared with another county or city
- Commissioner of Revenue
- Treasurer, when not shared with another county or city
- Soil and Water Conservation Director

<sup>44</sup> See the Code of Virginia §24.2-644(C).

<sup>45</sup> There is an exception in the Code of Virginia [§15.2-1525](#) that provides that a resident of a city that contains the courthouse of the county or that only shares a boundary with one county may run for local office in the county despite not being able to vote in the election for which they would be running. There is also an exception for elections for Commonwealth's attorney if no qualified attorney runs for the office or if there is not more than one qualified attorney who could run for office. Candidates running under this scenario should file all paperwork with the general registrar for the locality where the election is being held (as opposed to the locality where the candidate resides).

<sup>46</sup> See the Code of Virginia §§24.2-644, 24.2-648.



- Chairman or Member, Board of Supervisors or County Board
- Chairman or Member, School Board
- Mayor, City or Town
- Member, City or Town Council

### 16.9.3 Certify petition signature filings to ELECT as per the Code of Virginia §24.2-505(B)

The general registrar must formally acknowledge to the Department of Elections the number of registered voters in the county or city which appear on petitions for independent candidates for these offices:

- President and Vice President
- United States Senate
- United States House of Representatives
- Governor, Lieutenant Governor and Attorney General
- Senate of Virginia
- House of Delegates
- Constitutional Offices shared by one or more counties and/or cities

The signature totals recorded by VERIS are used for all offices. No separate certification is required. If requested in writing by a candidate for the General Assembly or a shared constitutional office, the general registrar or secretary of a local electoral board should notify the candidate of any deficiencies in the declaration of candidacy and petitions that can be corrected prior to the filing deadline.<sup>47</sup> If so requested, the general registrar may advise the candidate as to the number of valid signatures identified on his petitions.

### 16.9.4 Local electoral board notifies candidate(s) of deficiencies as per the Code of Virginia §24.2-612

After the filing deadline, whenever a candidate for local office must be disqualified because of deficiencies in the candidate's declaration of candidacy or petitions, the local electoral board must notify the candidate of the disqualification in writing.

### 16.9.5 Local electoral board certifies candidates as per the Code of Virginia §24.2-612

Immediately after any filing deadline and the conclusion of any petition signature appeals, the general registrar and secretary of the electoral board must certify all qualified candidates to the Department of Elections using VERIS.

The names of any disqualified candidates with the reason for the disqualification must also be entered in VERIS.

### 16.9.6 Review petitions filed by a *non-primary* candidate seeking party nomination as per the Code of Virginia §24.2-114(17).

A political party chair may request that the general registrar verify the petitions filed by a non-primary candidate seeking the party's nomination. If requested, the general registrar should check these forms and return them to the political party chair as quickly as possible. Include the number of signatures of registered voters that appear on the petitions when the forms are returned. To accomplish the petition verification for local offices in VERIS, create a candidate, create a master petition, and associate your locality to the master petition. For a General Assembly candidate, contact Department of Elections so that staff can create the candidate record and the master petition.

<sup>47</sup> See the Code of Virginia §24.2-505(D).





## VERIS Index

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

### Write-in Votes

- See [section 1.3.3.2.](#)

### Processing the County/City Results Report

- See [section 1.3.3.3.](#)

### VERIS Reports Available to Confirm Accurate Election Results

- See [section 1.3.3.5.](#)

### Processing the Abstracts of Votes

- See [section 1.3.3.6.](#)

### Letters to Voters Whose Provisional/Absentee Ballots are Rejected

- See [section 1.4.3.](#)

## VERIS Step-by-Steps

1. [Election Results](#) explain how to use VERIS to produce election results.
2. [Election Set up](#) explains how to set up an election in VERIS.
3. [Absentee Processing](#) explains in detail how to process absentee ballots and applications.
4. [Voting History](#) explains how to produce a voting history in VERIS.

*For further assistance, contact [VERIS help](#)*



## APPENDIX A

### 1VAC20-50-20. MATERIAL OMISSIONS FROM CANDIDATE PETITIONS AND PETITION SIGNATURE QUALIFICATIONS.

A. Pursuant to the requirements of §§ [24.2-506](#), [24.2-521](#), and [24.2-543](#) of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is a minor or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;
11. The notary has not included his registration number and commission expiration date; or
12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;
2. The signer is also the circulator of the petition;
3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;
4. The signer did not sign the petition; or
5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.



D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);
2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;
3. The name of the candidate and office sought are omitted from the back of the petition;
4. The circulator has not provided the last four digits of his social security number in the affidavit;
5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;
6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or
8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;
2. The signer provides his name; and
3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.



## APPENDIX B

### 1VAC20-50-30. APPEALS OF PETITION SIGNATURE INSUFFICIENCY.

A. Pursuant to the requirements of §§ [24.2-506](#) and [24.2-543](#) of the Code of Virginia, a candidate for office, other than a party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.

B. Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by the deadlines established within this section.

C. A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.

D. A candidate for an office other than President of the United States must file his appeal within five calendar days of the issuance of the notice of disqualification.

E. A candidate for President of the United States must file his appeal within seven calendar days of the issuance of the notice of disqualification.

F. The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate; otherwise, notice shall be sent by first-class mail.

G. The candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.

1. The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two business days prior to the date on which the appeal will be heard. If the candidate submits no list, or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.

2. The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.

3. The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.

4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. The affidavits should state the person's name, residence address, and, if possible, a reasonable description of the location where approached by the circulator to sign the petition.

5. The candidate may not submit documents establishing that a petition signer became registered or updated his voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought.

H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.

I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.

